

PATENT COOPERATION TREATY



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

REC'D 09 JUN 2004

WIPO PCT

Applicant's or agent's file reference E-1723/03		FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/IT 03/00387	International filing date (day/month/year) 23.06.2003	Priority date (day/month/year) 24.06.2002	
International Patent Classification (IPC) or both national classification and IPC B65D85/10			
Applicant G.D SOCIETA' PER AZIONI et al.			
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 4 sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of sheets.</p>			
<p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the opinion</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p>IV <input checked="" type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application</p>			
Date of submission of the demand 22.01.2004		Date of completion of this report 08.06.2004	
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized Officer Visentin, M Telephone No. +49 89 2399-2614 	

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/IT 03/00387**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-10 as originally filed

Claims, Numbers

1-29 as originally filed

Drawings, Sheets

1-5 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

IV. Lack of unity of invention

1. In response to the invitation to restrict or pay additional fees, the applicant has:

- ☐ restricted the claims.
☐ paid additional fees.
☐ paid additional fees under protest.
☒ neither restricted nor paid additional fees.

2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.

3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is

- ☐ complied with.
☐ not complied with for the following reasons:

4. Consequently, the following parts of the international application were the subject of international preliminary examination in establishing this report:

- ☐ all parts.
☒ the parts relating to claims Nos. 1-25 .

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-25
	No: Claims	
Inventive step (IS)	Yes: Claims	1-25
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-25
	No: Claims	

2. Citations and explanations

see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/IT03/00387

1. Because the applicant did not paid additional fees following the request of the International Search Authority, which raised an objection of lack of unity of invention for the present application (Rules 13.1 and 13.2 PCT), only the group of claims 1-25 have been made the subject of the examination.
2. The document WO-A-00/10892 (cited in the description) is regarded as being the closest prior Art to the subject-matter of independent claim 1. It discloses a carton according to the preamble of claim 1 from which the subject-matter of claim 1 differs in that the bottom wall of the first container comprises at least one through hole sized to permit insertion of a user's finger.
The subject-matter of claim 1 is therefore new (Article 33(2) PCT).
The problem to be solved by the invention is that of making easier for the user to extract a packet of cigarettes from the container.
The solution to this problem proposed in claim 1 is neither known from, nor rendered obvious by, the available prior Art and is considered as involving an inventive step (Article 33(3) PCT).
- 2.1 Claim 1-25 are dependent on claim 1 and as such also meet the requirements of the PCT with respect to novelty and inventive step.
3. The following inconsistency between the subject-matter of claim 1 and the description is observed.
Claim 1 defines a carton box formed by two containers, the bottom wall of the first container comprising *at least one* through hole (to permit insertion of a user's finger). The description at page 7, lines 16 to 21, however, reveals that this arrangement is only *a further embodiment* of the invention, rather than the only possible, according to claim 1. Moreover the same paragraph is inconsistent with the matter of claim 1 in that it discloses a through hole *for each packet of cigarettes* instead of *a single one* (see claim 1: *at least one through hole*).